

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HARRY F. SMITH
and MARK F. HARRINGTON

Appeal No. 96-3758
Application 08/252,832¹

ON BRIEF

Before BARRETT, FLEMING and LEE, Administrative Patent Judges.
LEE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-4, 7-12, 16-19 and 21-22. Claims 5, 6, 13, 14, 15 and 20 have been indicated as containing allowable subject matter (Paper No. 11 at 6).

¹ Application for patent filed June 2, 1994. According to applicants, the application is a continuation-in-part of Application 08/066,967, filed May 25, 1993, now Patent No. 5,327,066, granted July 5, 1994.

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References relied on by the Examiner

Pitchford et al. (Pitchford)	Patent No. 4,977,509	Dec. 11, 1990
Randelman et al. (Randelman)	Patent No. 5,072,380	Dec. 10, 1991

The Rejections on Appeal

Claims 1, 7, 10 and 12 stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Pitchford.

Claims 2-4, 8, 9, 11, and 16-19 stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Pitchford and Randelman.

Claims 21 and 22 stand finally rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly define and distinctly claim that subject matter which the appellants regard as their invention.

The above-identified rejections were first made in the examiner's answer. All rejections outstanding in the final Office action (Paper No. 8) were not reiterated in the examiner's answer and thus are presumed to have been withdrawn.

The appellants' reply to the examiner's answer was accompanied by an amendment (Paper No. 15B) which evidently has

been entered (Paper No. 16). It made modifications to numerous claims. In response, the examiner still maintained the rejections first made in the examiner's answer (Paper No. 16).

The Invention

The invention is directed to a method and apparatus for providing supplementary navigation data to a navigation system installed in a vehicle from one or more local stations and for selectively displaying the received supplementary navigation data on a display.

Independent claims 1, 7 and 16 are representative of the claims rejected over prior art and are reproduced below:

1. A navigation system comprising:

a mobile vehicular navigation device installed within a vehicle, the navigation device having means for storing primary navigation data, a display, and means for transmitting stored primary navigation data to the display;

means for supplying supplementary navigation data to the navigation device comprising means for receiving the supplementary navigation data from a communications link at a local vehicle station and, means for transmitting received supplemental navigation data to the navigation device; and

a controller for selectively displaying the received supplemental navigation data on the display.

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7. A method of supplementing primary navigation data displayed on a display in a vehicle navigation system that is installed within a vehicle, comprising the steps of:

receiving supplementary navigation data by a vehicle for a communications link at a local vehicle station;

transmitting the received supplementary navigation data to the vehicle navigation system that is installed in the vehicle; and

displaying the received supplementary navigation data on the display of the vehicle navigation system in the vehicle.

16. A system for supplementing navigation information displayed by a vehicle navigation system that is installed within a vehicle, the vehicle navigation system having a display, means for storing primary navigation data, and means for displaying the stored primary navigation data on the display, the navigation information supplementing system comprising:

a plurality of local vehicle communication stations, each station having means for transmitting supplementary navigation data; and

a vehicle having a communications device connected to the vehicle navigation system that is installed within the vehicle, and a controller for displaying the supplementary navigation data received by the communications device on the display of the vehicle navigation system inside the vehicle.

All three claims require the receiving of supplementary navigation data from a communications link at a local vehicle station and the selective displaying of the received supplementary navigation data on a display. Claim 16 further

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requires a plurality of such local vehicle communication stations.

Opinion

We do not sustain the rejection of claims 21 and 22 under 35 U.S.C. § 112, second paragraph.

We do not sustain the rejection of claims 1-4, 7-12 and 16-19 over prior art.

The rejection of claims 21 and 22 under 35 U.S.C. § 112, second paragraph

In the examiner's answer at 6, it is stated:

Claims 21 and 22 are rejected under 35 USC 112, second paragraph as being ambiguous. Claims 21 and 22 refer to methods claims while recites "means for". A claim cannot recite both statutory classes, a method and an apparatus. See Ex parte Lyell, 17 USPQ2d 1548 (Bd. PA&I. 1990).

In response to the rejection, the appellants amended claims 21 and 22 to eliminate all references to "means plus function" language (Paper No. 15B). Without discussing the appellants' response, the examiner maintained the original rejection under 35 U.S.C. § 112, second paragraph.

Since the examiner's stated reasons for rejecting claims 21 and 22 have been eliminated, the rejection of claims 21 and 22

cannot be sustained. We do not give any opinion on the propriety of the examiner's rejection as applied to the claims in their form prior to the last amendment.

**The rejection of claims 1-4,
7-12 and 16-19 over prior art**

Claims 1, 7, 10 and 12 have been rejected as being unpatentable over Pitchford alone. Claims 2-4, 8-9, 11 and 16-19 have been rejected as being unpatentable over Pitchford and Randelman in combination.

All three independent claims 1, 7 and 16 require the receipt of supplementary navigation data from a local station by a navigation system having a navigation device installed in a vehicle. The system already displays primary navigation data on a display and selectively displays the received supplementary navigation data.

Pitchford discloses a portable navigation device including a display for displaying navigation data. It includes a multipurpose keyboard which allows the user to communicate with the navigation device to perform functions such as selecting a number of special operations to provide numerous navigational information desired by the user (column 1, line 65 to column 2, line 2). Navigation data can be immediately displayed in digital

form on an LCD display (column 2, lines 32-41). The device includes a temperature sensor, an infrared sensor, a barometric sensor, and a flux gate magnetometer to provide signals in helping to provide the desired navigation data for display (column 5, lines 18-56).

The claim feature at issue is the requirement that supplementary navigation data is received from a local vehicle station. Neither the examiner nor do we regard Pitchford's keyboard as such a local station in the context of the claimed invention. As reasonably construed in light of the appellants specification, the local station has to be some facility outside and remote of the vehicle in which the navigation device is installed, or in the case of Pitchford, a facility outside and remote of the handheld and portable navigation device.

Pitchford does, however, disclose the presence on its handheld navigation device an optical input/output port for serially interfacing the CPU of the instrument with another electronic device, computer or the like (abstract; column 2, line 68 to column 3, line 6). The only description of any specific use of this I/O port appears in column 7, lines 16-24 of the specification:

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As software functions are enhanced, improved or added, they can be provided to the user through update disks which may be loaded on a standard personal computer and down loaded to the navigational instrument 1 by way of the input/output port 22 of the optically coupled serial interface connected to the CPU 88 without the necessity of returning the entire navigational instrument 1 to a factory or service center for updating.

Without any explanation, the examiner simply assumes that the information received by Pitchford's navigation device through its optical I/O interface from another electronic device is supplementary navigation data (answer at 4, lines 13-14). The above-quoted description of the use of the I/O port does not reasonably suggest that the information received is supplementary navigation data. The examiner has no basis to assume that the information received constitutes supplementary navigation data. We do not interpret the term navigation data so broadly as to cover anything and everything which may be inputted to a navigation device from whatever source and for whatever purpose.

Moreover, all of the claims require selective display of the received supplementary navigation data. Pitchford does not disclose that the programming information or any other information received from the I/O port would be displayed. The examiner concluded that it would have been obvious to display the

received data because such display would "better serve the user" (answer at 4). We are unpersuaded. Pitchford would give one with ordinary skill in the art no reasonable motivation to selectively display the data received through the I/O port of its navigation device. To say that it would better serve the user to do so is not very meaningful unless such advantage or preference stems from the applied prior art. There can be no presumption that one with ordinary skill in the art would want to have displayed anything and everything received by Pitchford's navigation device through its I/O port from another instrument.

Randelman does not make up for the deficiencies of Pitchford, since Randelman does not have anything to do with a navigation system or the providing of supplementary navigation data to a navigation system already storing or displaying primary navigation data. With regard to claim 16, Randelman is relied on by the examiner only to meet the limitation of a plurality of local stations and communication systems (answer at 5-6).

For all of the foregoing reasons, we do not sustain the rejection of claims 1, 7, 10 and 12 as being unpatentable over Pitchford. And we also do not sustain the rejection of claims 2-4, 8, 9, 11 and 16-19 as being unpatentable over Pitchford and

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Randelman.

Conclusion

The rejection of claims 21 and 22 under 35 U.S.C. § 112, second paragraph, is reversed.

The rejection of claims 1, 7, 10 and 12 under 35 U.S.C. § 103 as being unpatentable over Pitchford is reversed.

The rejection of claims 2-4, 8, 9, 11 and 16-19 under 35 U.S.C. § 103 as being unpatentable over Pitchford and Randelman is reversed.

REVERSED

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